



Oregon Law Commission

June 22, 2020

Testimony in Support of the Notarial Acts Provisions
LC0045 (Sections 27-40) Remote Online Notarization

Joint Interim Committee on The First Special Session--June 22, 2020

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President Courtney and members of the Committee. I am Mark Comstock, a Commissioner of the Oregon Law Commission. Thank you for the opportunity to testify in favor of the Notarial Acts provisions of LC 0045, Sections 27-40.

In 2019, I chaired an Oregon Law Commission Work Group which considered and proposed amendments to the Revised Uniform Laws on Notarial Acts, adopted in Oregon in 2013 as ORS 194.205—194.440, to update the provisions to allow Remote Online Notarization (RON), sometimes called “e-notarization” of documents. The Oregon Law Commission adopted the recommendations and authorized submission of LC9990 in the 2019 Legislative Session. Unfortunately, the concept lacked a legislator sponsor for the 2020 short session.

In light of the Governor’s Stay at Home and Social Distancing Emergency Orders the Remote Online Notarization authorization for Oregon Notaries is particularly needed during the ongoing COVID – 19 pandemic to allow Oregon Notaries to notarize deeds, powers of attorney and other instruments for Oregon citizens and businesses while maintaining healthy distance. Recently the RON Work Group met again to craft a second RON concept, LC0029, which has now become a part of LC0045 as Sections 27-40.

The Oregon Law Commission Work Group brought together all of the known stakeholder representatives from title companies, real estate lawyers, estate planning lawyers, the Oregon State Bar, The Oregon Bankers Association, the Oregon Credit Union League, Mortgage Bankers, The Oregon Secretary of State, County Clerks and the Oregon Judicial Department who vetted a Uniform Laws Commission proposal that has now been adopted in nearly 47 states as either a statutory provision or emergency adoption by the executive branch.

At its core the proposed legislation amends the current physical presence requirement of ORS 194.235 if certain conditions exist. Those conditions include 1) the Notary must be registered with the Oregon Secretary of State as a notary who has the facilities to provide simultaneous audio and visual communication between the notary and the remotely located signor individual; 2) the notary has satisfactory evidence of identity the signor by either knowledge or a method of satisfactory evidence using at least two different types of identity proofing; and 3) the notary has the ability to make and store an audiovisual record of the notarial act for a minimum of ten (10) years.



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LC 0045 in Sections 27—40 adopts the safeguards identified in the Uniform Act Amendment and is tailored to Oregon practices by including Oregon jurisdiction over notaries providing RON services; allows for an audiovisual record for Courts for questioned transactions and the Oregon Secretary of State, as the regulator of notaries; allows for enhanced identity proofing of individuals; and has a sunset provision which will allow consideration of permanent adoption in the 2021 session. The provisions do have a \$25 cap for charges by a notary for each notarization.

The Oregon Law Commission has worked closely with the Secretary of State to assure that RON notarizations can be recognized for Oregon residents and the provisions of LC0045 can be implemented immediately upon passage.

The Oregon Law Commission urges adoption of the Notarial Acts provisions of LC0045, Sections 27—40 by the Legislature. I would be pleased to answer questions. Thank you for the opportunity to bring this important legislation to the Legislature.